IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11509 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

MUKESH ISHWARLAL PRAJAPATI

Versus

STATE OF GUJARAT

Appearance:

MS JAYSHREE C BHATT for Petitioner

MR HH PATEL for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 15/02/2001

ORAL JUDGEMENT

#. By this petition under Article 226 of the Constitution, the petitioner detenue at Rajkot jail challenges the order dated 30-9-2000 of the Police Commissioner, Ahmedabad City, under which he was detained as a dangerous person.

#. Challenging the order of detention, learned counsel for the petitioner raised manifold contentions but as this petition deserves to be allowed only on one ground, it is not necessary to refer, discuss and decide on all other contentions.

#. Reply to the special civil application has not been filed by any of the respondents and the averments made in the special civil application stand uncontroverted.

#. It is contended that the respondents have not furnished the copies of the documents mentioned in paras-6 and 7 of the special civil application. The petitioner prayed for the documents, namely, the copy of the order passed by the Court on the report of Janawa Jog Entry no.18 of 20000 and also not supplied with the copy of bail application and bail order of co-accused detenue namely Navin in C.R. No.219 of 2000, statements of witnesses recorded under section 161 of Cr.P.C. of one Kokilaben in C.R. No.625/2000 and the petitioner has been denied of his valuable right to make effective representation.

#. It is not the case of the respondents that the documents aforesaid have been supplied to the petitioner. They have not cared to file reply to the special civil application and as such it is to be taken to be admitted that the copies of these documents were not supplied to the petitioner. These documents are certainly vital and relevant documents for the petitioner to file his representation against this detention. This is a case where the petitioner has been denied of his valuable right guaranteed to him to make effective representation against the detention order under Article 22 (5) of the Constitution of India.

#. In the result, this petition succeeds and the same is allowed. The order of detention of the petitioner dated 30-9-2000 is quashed and set aside. The petitioner Mukesh Ishwarlal Prajapati, detenue, at present in Rajkot Jail, be set free forthwith, if he is not required in any other case. Rule is made absolute. No order as to costs.

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zgs/-